

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
-v-	:	18-CR-528-1 (JMF)
	:	
HUBERT DUPIGNY,	:	<u>MEMORANDUM OPINION</u>
	:	<u>AND ORDER</u>
Defendant.	:	
-----X	:	

JESSE M. FURMAN, United States District Judge:

On January 30, 2025, Defendant Hubert Dupigny, proceeding without counsel, filed another attack on his conviction and sentence in this case, styled as a “Writ Of Error Coram Nobis Pursuant To All Writs Act (28 U.S.C.S. § 1651).” ECF No. 423. Defendant previously filed a § 2255 motion on April 28, 2023, *see* ECF No. 409, which was denied by Memorandum Opinion and Order entered on May 1, 2023, *see* ECF No. 410. In light of Defendant’s previous motion, the Court provided Defendant an opportunity to withdraw his new motion in the event that the Court decided to treat it as a second or successive motion pursuant to 28 U.S.C. § 2255. *See* ECF No. 424. In a letter dated March 4, 2025, Defendant declined the opportunity to withdraw the motion and instead requested that the Court “recharacterize” the motion and “transfer the application to the proper Court.” ECF No. 425.

Pursuant to 28 U.S.C. § 2255(h), “[a] second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals.” 28 U.S.C. § 2255(h). Section 2244 provides that “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” 28 U.S.C. § 2244(b)(3)(A). When a defendant files a successive Section 2255 motion without first obtaining certification of

the Court of Appeals, “the district court should transfer the . . . motion to [the Court of Appeals] in the interest of justice.” *Corrao v. United States*, 152 F.3d 188, 190 (2d Cir. 1998).

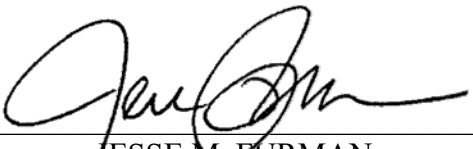
Accordingly, it is hereby ORDERED that Defendant’s motion shall be transferred to the Court of Appeals for the Second Circuit for treatment as a second or successive motion. The Clerk of Court is directed to terminate ECF No. 423. If the Court of Appeals authorizes Defendant to proceed in this matter, he may renew his motion in this matter.

As the motion makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253. The Court certifies, under 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to mail a copy of this Order to Defendant at:

Hubert Dupigny
Reg. No. 56457-054
FCI Gilmer
P.O. Box 6000
Glenville, WV 26351

Dated: March 13, 2025
New York, New York



JESSE M. FURMAN
United States District Judge